

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

MARIO BLACKWELL,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-13-1317-D
)	
GARFIELD COUNTY JAIL,)	
)	
Respondent.)	

ORDER

This matter is before the Court for review of the Report and Recommendation [Doc. No. 7] issued by United States Magistrate Judge Charles B. Goodwin pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Upon initial screening, Judge Goodwin recommends that the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus be dismissed without prejudice for failure to exhaust state court remedies.¹ If this recommendation is adopted, Judge Goodwin also recommends that Petitioner's application for leave to proceed *in forma pauperis* be denied as moot.

The case file shows no timely objection to the Report nor request for additional time to object, even though Petitioner was expressly informed of his right to object, the procedure for doing so, and the consequences of failing to object. Therefore, the Court finds that Petitioner has waived further review of all issues due to his failure to object. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir.

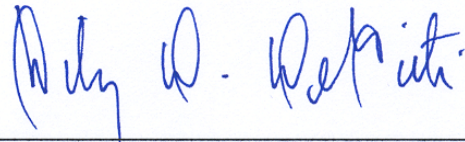
¹ Judge Goodwin also notes that one ground for relief asserted in the Petition is based on state law and alleges a failure to conduct a timely hearing on an application to revoke Petitioner's suspended sentence. The hearing was scheduled to occur – and, according to an electronic record of the state court docket sheet, did occur – on January 24, 2014. *See* <http://www.oscn.net/applications/oscn/GetCaseInformation.asp?number=CF-2006-417&db=Garfield&submitted=true> (accessed Jan. 28, 2014). Thus, this part of the Petition appears to be moot.

1996). For this reason, and the reasons fully explained by Judge Goodwin, the Court finds that the Petition should be dismissed for lack of exhaustion of state court remedies.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 7] is ADOPTED. The Petition is DISMISSED without prejudice to refiling after state court remedies are exhausted. A separate judgment shall be entered accordingly.

IT IS FURTHER ORDERED that the Application for Leave to Proceed In Forma Pauperis [Doc. No. 2] is DENIED as moot.

IT IS SO ORDERED this 28th day of January, 2014.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE